

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
IN RE BANK OF AMERICA CORP.
SECURITIES, DERIVATIVE, AND
EMPLOYMENT RETIREMENT INCOME
SECURITY ACT (ERISA) LITIGATION

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THIS DOCUMENT RELATES TO

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ALL INDIVIDUAL ACTIONS ONLY

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 7-20-12

Master File
No. 09-MD-2058 (PKC)

ECF CASE

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PROPOSED REVISED CIVIL
CASE MANAGEMENT PLAN
AND SCHEDULING ORDER

This Proposed Revised Civil Case Management Plan (the "Plan") is submitted by the parties to the Individual Actions and amends the previous scheduling order entered by this Court on May 30, 2012, and modified in part on June 29, 2012.

1. The parties do not consent to conducting all further proceedings before a Magistrate Judge, including motions and trial. 28 U.S.C. § 636(c).
2. Each Individual Action is to be tried to a jury.
3. Plaintiffs may amend their complaints, by July 27, 2012, to add solely the additional allegations contained in the proposed Fourth Amended Consolidated Complaint for Violations of the Federal Securities Laws provided to Defendants on July 12, 2012, by plaintiffs in *Stichting Pensioenfunds ABP, et al. v. Bank of America Corp., et al.*, No. 10 Civ. 2284, and Defendants will not oppose such filings. Defendants' time to answer or otherwise respond to any such amended complaints shall be twenty (20) days following this Court's decision (including any order and opinion) on the Lead Plaintiffs' motion for partial summary judgment, filed on June 3, 2012, in *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation*, Master File No. 09 MDL 2058 (PKC), Dkt. 589.
4. Fact discovery, unique to the Individual Actions, shall be completed by September 14, 2012.
5. Expert discovery shall be completed by November 27, 2012.
 - a. The party bearing the burden of proof as to any issue with respect to which it intends to submit an expert report shall identify experts and the subjects of their testimony by September 6, 2012. The opposing party shall

identify its experts by September 13, 2012. Any rebuttal experts shall be identified by September 20, 2012. Expert report(s) of the party with the burden of proof shall be served by September 27, 2012. The opposing party's expert report(s) shall be served by October 18, 2012. Rebuttal expert report(s) of the party with the burden of proof shall be served by October 29, 2012.

- b. If a party relies on an expert named in the Consolidated Securities Action, and submits in an Individual Action report(s) submitted by that expert in the Consolidated Securities Action, then there shall be no additional deposition of that expert in such Individual Action with respect to such report(s).
 - c. Any deposition of the parties' experts shall be completed by November 27, 2012.
6. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York.
 - a. Any requests for the production of documents, requests for admissions, or interrogatories shall be served by no later than June 28, 2012.
 - b. Absent agreement by the parties or Court order, a deposition of a witness not under a party's control is limited to one day of seven hours in accordance with Rule 30(d)(1) of the Federal Rules of Civil Procedure.
7. All motions and applications shall be governed by the Court's Individual Practices, including pre-motion conference requirements, except that the following motions may be made without a pre-motion conference: (a) motions for summary judgment on the schedule set forth in paragraph 9 and (b) motions in limine on the schedule set forth in paragraph 9.
8. All counsel must meet face-to-face for at least one hour to discuss settlement within fourteen (14) days following the close of discovery.
9. The pre-motion conference is waived for any summary judgment motions filed by the parties after the close of fact discovery provided such motions are filed no later than December 20, 2012. Responses are due by January 18, 2013. Any replies are due by February 6, 2013.
10. The Final Pretrial Submission Date is forty-five (45) days following a decision on a summary judgment motion, assuming the action survives. By the Final Pretrial Submission Date, the parties shall submit a Joint Pretrial Order prepared in accordance with the undersigned's Individual Practices and Rule 23(a)(3), Fed. R. Civ. P. Any motions in limine shall be fully submitted by the Final Pretrial Submission Date and the pre-motion conference requirement is waived for any such motion. Proposed voir dire, jury instructions and verdict form shall also be filed by the final Pretrial Submission Date. Counsel are required to meet and

confer on a joint submission of proposed jury instructions and verdict form, noting any points of disagreement in the joint submission. Jury instructions may not be submitted after the Final Pretrial Submission Date, unless they meet the standard of Rule 51(a)(2)(A), Fed. R. Civ. P.

11. No initial disclosures will be served in the Individual Actions.
12. The parties are permitted to serve up to thirty (30) interrogatories per side. Interrogatories are governed by Local Civil Rule 33.3.
13. The parties are permitted to serve up to thirty (30) requests for admission per side.
14. The next Case Management Conference is scheduled for Dec. 17, 2012 at 11:30 a.m.
15. This Civil Case Management Plan and Scheduling Order applies to all Individual Actions, except, with respect to paragraphs 7(b) and 10, to Schwab S&P 500 Index Fund, et al. v. Bank of America Corp., et al., No. 11-cv-7779.

TO BE COMPLETED BY THE COURT:

The Plan has been reviewed by the Court and, except as modified, is adopted as the Scheduling Order of this Court in accordance with Rule 16(b), Fed. R. Civ. P.

This ORDER may not be modified or the dates herein extended, except by further Order of this Court for good cause shown. Any application to modify or extend the dates herein (except as otherwise stated shall be made in written application in accordance with paragraph 1(C) of the Court's Individual Practices and shall be made no less than five (5) days prior to the expiration of the date sought extended.



P/ Kevin Castel
United States District Judge

Dated: July 2012
New York, New York